

Harpswell Board of Appeals
Minutes of May 27, 2009

Approved

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Attendance: Ned Simmons, Chair, Jim Knight, Ellen Lebauer, John Perry and George Every. Recording Secretary Melissa Moretti was also in attendance.

The meeting had been duly advertised in the Brunswick *Times Record*. Mr. Simmons, Chair, called the meeting to order at 6:35 PM at the Harpswell Town Office, 263 Mountain Road, Harpswell.

The Chair then read the Agenda and introduced the Board members.

The site visit was attended by Ms. Lebauer and Mr. Perry, who said the site had been easy to find.

The election of officers was addressed; Mr. Simmons was elected to continue as Chair, and Mr. Knight was elected to continue as Secretary – both by unanimous vote.

The Chair made the decision to address the Bourassa matter later in the meeting, as the applicants were not yet present.

Other Business

Consideration of Minutes: March 25, 2009 meeting

The Minutes of March 25, 2009 were addressed; the Chair allowed the Board a brief time to review them. There was a motion to adopt which was seconded. The Chair suggested that under no. 2, “Matter of Lloyd Wallace...” Williams Wells, the Harpswell Code Enforcement Officer, presented Mr. Wallace’s application but had not appeared as Mr. Wallace’s advocate as had been stated in the Minutes. This was because Mr. Wallace was disabled and could not attend the meeting. Therefore, the sentence would read “Mr. Wells, the Code Enforcement Officer, presented Mr. Wallace’s application.”

It was also suggested that the second sentence of that section begin a new paragraph; it addressed Mr. Wells’ suggestions regarding how disability variances could be dealt with in the future. The supplemental discussion continued for three paragraphs. The Chair suggested that the proposed wording of the discussion begin “Mr. Wells presented a concept of how to deal with disability variances in the future.”

The Chair also suggested a change to the last paragraph of the Minutes regarding the Board member residency issue. The proposed wording of the sentence was “The Chair clarified that the Board of Selectmen would have to have cause to dismiss a Board of Appeals member; it would not be a whim.”

Mr. Perry moved to accept the discussed changes in his original motion, which was seconded. The Board voted unanimously to accept the changes to the Minutes.

Discussion of Board of Appeals Forms: Variance Request Application, Notice of Variance Decision

The Recording Secretary had handed out copies of the Variance Request Application which were marked to show the changed section numbers that corresponded to the Basic Land Use Ordinance. The Board discussed that other changes needed to be made to the Notice of Variance Decision form also, in order to have it comply with the Ordinance, as stated at their last meeting. The consensus of the Board was that the forms needed to be corrected for accuracy, and they would continue to address the issue. The Chair stated that the Practical Difficulty Variance was confusing; the Ordinance had six criteria and the Application had eight – the two other criteria were not enumerated, and the numbers were not the same.

Mr. Perry suggested that the Ordinance be specified on the Variance Application; it should refer to the Basic Land Use Ordinance. The Chair reiterated his opinion that the Ordinance, the Variance Request Application and the Notice of Variance Decision forms “read alike”.

Matter of David and Dale Bourassa, Request for Setback Variance under §14.1.3.4 of the Basic Land Use Ordinance, Tax Map 50 Lot 20, 37 Harpswell Islands Road, Harpswell.

Participating in Hearing – The Board members present.

The Chair suggested the Board address the matter, even though the Applicants and the Code Enforcement Officer were not in attendance.

It was clarified that the Ordinance Sections referenced on the Application for Setback Variance submitted by the Applicants were not

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synchronized with the actual Ordinance. The Board wished these Minutes to reflect that §14.1.3.4 of the Ordinance did not apply. The Request for Variance was for a two car garage, but the Applicants filed their application under the Section of the Ordinance that addressed a single family dwelling. The consensus of the Board was that the Applicant should have applied for an Undue Hardship Variance, and they were uncomfortable amending the application because the Applicants were not present.

There was discussion regarding what section of the Ordinance would apply for setback variance of a two car garage. The Chair moved that the Board deny the variance request by David and Dale Bourassa due to the fact that they applied under §14.1.4.4, a variance for a single family dwelling, and they applied for a variance for a two car garage which does not qualify under the requirements of that section. The motion was seconded. The Board voted unanimously to deny the variance.

The Board mentioned, for the record, that the Applicants be informed, in writing, of the reconsideration process and associated time constraints. The Chair stated that the Applicants had ten days to apply to the Board for reconsideration, and 45 days to apply to Superior Court. There was discussion regarding whether the Applicants would be able to appeal the same matter twice, in the case of reapplication.

Mr. Knight asked the Recording Secretary if she had spoken to the Code Enforcement Officer that day; she responded that she had not, but had left a phone message at his home at 6:17 PM to remind him of the meeting. Mr. Knight stated that he had read something in the paper regarding the Bourassas that could have explained their absence from the meeting.

The Chair adjourned the meeting at 7:05 PM.

Respectfully Submitted,

Melissa Moretti
Recording Secretary